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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/909,248 | 07/19/2001 | Biswa R. Banerjee | 11465/491 | 9312 |
| 7590 Patent Administrator Suite 1600 525 West Monroe Street Chicago, IL 60661-3693 | | | EXAMINER BRIER, JEFFERY A | |
| | | | ART UNIT 2628 | PAPER NUMBER |
| | | | MAIL DATE 07/20/2009 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte Biswa R. Banerjee
S. Christopher Gladwin
Arif Maskatia
Alan Soucy

Application No. 09/909,248
Technology Center 2600

Mailed: July 20, 2009

Before DEBORAH L. PERRY, *Supervisory Paralegal Specialist, Review Team.*

PERRY, *Supervisory Paralegal Specialist, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the

application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF

STATUS OF CLAIMS

A review of the Appeal Brief, filed, October 9, 2008, finds that the appendix entitled Status of Claims is unclear and/or is not consistent with the status of claims of record. The status of the claims as provided in the Appeal Brief must be consistent with the last entered amendment (what claims are pending, withdrawn, abandoned and/or on appeal). A review of the last entered amendment finds that claims 2-5 and 8-13 were cancelled.

To correct this, the Examiner may hold the Appeal Brief defective and require the Appellant to file a “paper” in compliance OR the Examiner may issue a PTOL-90 to update the Status of Claims in the Examiner’s Answer.

EXAMINER’S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed in this application on June 15, 2009. There is no evidence on the record indicating that the Examiner has considered the

Reply Brief in accordance with 37 CFR § 41.43(a)(1) and MPEP § 1208, part II.

CONCLUSION

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief filed on October 9, 2008, defective and require the Appellant to file a “paper” correcting the appendix heading: Status of Claims; or alternatively
- 2) for the Examiner to update in the Examiner’s Answer, Status of Claims. The Examiner may do this on a Form PTOL-90 (the same form he considers the Reply Brief below on);
- 3) consider the Reply Brief filed June 15, 2009 as indicated above;
- 4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/jsd

Application No. 09/909,248

Patent Administrator
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